

1 Paul J. Pascuzzi, State Bar No. 148810
Jason E. Rios, State Bar No. 190086
2 Thomas R. Phinney, State Bar No. 159435
Mikayla E. Kutsuris, State Bar No. 339777
3 FELDERSTEIN FITZGERALD
WILLOUGHBY PASCUZZI & RIOS LLP
4 500 Capitol Mall, Suite 2250
Sacramento, CA 95814
5 Telephone: (916) 329-7400
6 Facsimile: (916) 329-7435
Email: ppascuzzi@ffwplaw.com
7 jrios@ffwplaw.com
tphinney@ffwplaw.com
8 mkutsuris@ffwplaw.com

9 Ori Katz, State Bar No. 209561
Alan H. Martin, State Bar No. 132301
10 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
A Limited Liability Partnership
11 Including Professional Corporations
Four Embarcadero Center, 17th Floor
12 San Francisco, California 94111-4109
Telephone: (415) 434-9100
13 Facsimile: (415) 434-3947
Email: okatz@sheppardmullin.com
14 amartin@sheppardmullin.com
15

16 Attorneys for The Roman Catholic Archbishop of
San Francisco

17 UNITED STATES BANKRUPTCY COURT
18 NORTHERN DISTRICT OF CALIFORNIA
19 SAN FRANCISCO DIVISION
20

21 In re
22 THE ROMAN CATHOLIC ARCHBISHOP
OF SAN FRANCISCO,
23 Debtor and
24 Debtor in Possession.

Case No. 23-30564
Chapter 11
Date: October 23, 2025
Time: 1:30 p.m.
Location: via Zoom
25 Judge: Hon. Dennis Montali

26 **DEBTOR'S RESERVATION OF RIGHTS IN RESPONSE TO MOTION FOR**
27 **AN ORDER TO ENLARGE THE CLAIMS BAR DATE TO ALLOW**
28 **FILING OF LATE PROOF OF CLAIM**

1 The Roman Catholic Archbishop of San Francisco, the debtor and debtor in possession
2 herein (the “Debtor”), hereby files this reservation of rights in response to the *Motion For An Order*
3 *To Enlarge The Claims Bar Date To Allow Filing of Late Proof of Claim* [ECF No. 1326] (the
4 “Motion”), filed by LL John Doe JRO (“Claimant”) who is represented by the law firm of Liakos
5 Law, APC.

6 The Motion was filed on or about September 5, 2025, by counsel to the Claimant. Counsel
7 for the Debtor reviewed the Motion to understand the facts supporting the Claimant’s request to
8 allow his late filed proof of claim (“Claim”). The Debtor provides this response to include
9 authorities that have addressed the “excusable neglect” standards, including recent decisions in
10 diocesan and other pertinent cases, but is not taking a position as to whether the Claimant has made
11 a sufficient showing in this case.

12 I. SUMMARY OF ALLEGED UNDERLYING CLAIM

13 The Motion states that the Claimant is represented by Liakos Law, APC. Claimant’s counsel
14 filed a Master Complaint for Damages (the “Complaint”) on November 29, 2022. The exhibits filed
15 in support of the Motion demonstrate that the Roman Catholic Bishop of Oakland refused to accept
16 service of the summons and the Complaint on the grounds of the automatic stay; notably,
17 approximately six (6) months had passed between the filing of the Complaint, and the attempted
18 service, reflecting a lack of diligence by Claimant’s counsel in pursuing timely service of the
19 Complaint. The Motion states that the Claimant erroneously sued the “Diocese of Oakland.” As a
20 result, it is alleged that Claimant’s counsel did not file a proof of claim for the Claimant in this case.
21 On August 20, 2025, Claimant’s counsel was informed by the committee counsel in the *In re The*
22 *Roman Catholic Bishop of Oakland* case, that the Diocese of Oakland was not the correct defendant.
23 The Motion was filed approximately two weeks later, on September 5, 2025.

24 II. EXTENSIVE PUBLICATION OF FEBRUARY 20, 2024, CLAIMS BAR DATE

25 On November 21, 2023, the court entered its Order: (1) Fixing Time for Filing Proofs of
26 Claim; (2) Approving Proof of Claim Forms; (3) Providing Confidential Protocols; and (4)
27 Approving Form and Manner of Notice [ECF No. 337] (“Bar Date Order”). The Bar Date Order set
28 February 20, 2024, as the deadline to file proofs of claim (the “Bar Date”). The Bar Date Order

1 approved an extensive notice and publication process in order to assure adequate notice to known
2 and unknown claimants, including extensive mailings, online noticing and numerous local and
3 national newspapers.

4 As described in the Statement of Compliance with Noticing Provisions of Bar Date Order
5 [ECF No. 587] ("Statement of Compliance"), the Debtor has fully complied with Form and Manner
6 of Notice provisions of the Bar Date Order. In addition, as described in the Statement of
7 Compliance, the Debtor also has undertaken additional noticing measures, including substantial
8 publication in newspapers of general circulation in national and local markets, a press release of the
9 bankruptcy filing to over 9000 news organizations, and social media postings. See Declaration of
10 Peter Marlow at ECF No. 587-1. Thus, unknown creditors received notice of the Bar Date through
11 an extensive notice and publication program approved by this Court.

12 Constructive notice can be satisfied through publication notice since "in the case of persons
13 missing or unknown, employment of an indirect and even a probably futile means of notification is
14 all that the situation permits and creates no constitutional bar to a final decree foreclosing their
15 rights." *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 317 (1950); *Tulsa*
16 *Professional Collection Services, Inc. v. Pope*, 485 U.S. 478, 490 (1988). Notice of the Bar Date
17 was proper and sufficient, including unknown claimants. Movant does not dispute that Notice was
18 adequate.

19 Since the Bar Date Order, the Committee, counsel for hundreds of sexual abuse claimants,
20 the Debtor, and the Debtor's insurers have engaged in mediation. That mediation is predicated on
21 the claims filed against the Debtor and the insurance analysis related to the filed claims. The Debtor
22 has shared a settlement proposal term sheet with the mediators, and it is based on several factors,
23 one of which is tied to the number of claimants. Offers have been exchanged between the Debtor
24 and Committee based on the term sheet. The added challenge of a moving target is prejudicial to
25 the Debtor and harmful to the overall case trajectory.

26 ///

27 ///

28 ///

III. EXCUSABLE NEGLECT STANDARD

Bankruptcy Rule 9006(b)(1) provides that “...the court may—at any time and for cause—extend the time to act if...on motion made after the specified period expires, the failure to act within that period resulted from excusable neglect.” Fed. R. Bankr. P. 9006.

In *Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P’ship*, 507 U.S. 380, 113 S. Ct. 1489, 123 L. Ed. 2d 74 (1993), the Supreme Court provided that the “excusable neglect” standard for Rule 9006(b)(1) governs late filings of proofs of claim in chapter 11 cases. *Id.* at 389. The determination of what sorts of neglect will be considered “excusable”, “is at bottom an equitable one, taking account of all relevant circumstances surrounding the party’s omission.” *Id.* at 395. Under *Pioneer*, in considering whether the moving party has shown excusable neglect, the court considers: (1) the danger of prejudice to the debtor; (2) the length of the delay and its potential impact on judicial proceedings; (3) the reason for the delay, including whether it was within the reasonable control of the movant; and (4) whether the movant acted in good faith. *Id.*

The factors are not exclusive, but rather, “provide a framework with which to determine whether missing a filing deadline constitutes ‘excusable’ neglect.” *See Bateman v. U.S. Postal Serv.*, 231 F.3d 1220, 1224 (9th Cir. 2000). The Ninth Circuit has recognized that the correct approach under *Pioneer* is to avoid any per se rule. *See Pincay v. Andrews*, 389 F.3d 853, 860 (9th Cir. 2004) (*en banc*). The Ninth Circuit “leave[s] the weighing of *Pioneer*’s equitable factors to the discretion of the...court in every case.” *Id.*

The Supreme Court in *Pioneer* found that “in determining whether respondents’ failure to file their proofs of claim prior to the bar date was excusable, the proper focus is upon whether the neglect of respondents *and their counsel* was excusable.” *Pioneer*, 507 U.S. at 397. The Court reasoned that “respondents [must] be held accountable for the acts and omissions of their chosen counsel.” *Id.* at 397. The Supreme Court, recounted its prior holding in *Link v. Wabash R. Co.*, 370 U.S. 626, 82 S. Ct. 1386, 8 L. Ed. 2d 734 (1962)) stating, “[i]n other contexts, we have held that clients must be held accountable for the acts and omissions of their attorneys” and, noted that the Supreme Court in *Link v. Wabash R. Co.* wrote:

1 “Petitioner voluntarily chose this attorney as his representative in the action,
2 and he cannot now avoid the consequences of the acts or omissions of this freely
3 selected agent. Any other notion would be wholly inconsistent with our system
4 of representative litigation, in which each party is deemed bound by the acts of
his lawyer-agent and is considered to have ‘notice of all facts, notice of which
can be charged upon the attorney.’”

5 *Pioneer*, 507 U.S. at 397 (citing *Link v. Wabash R. Co.*, 370 U.S. 626, 633-34, 82 S Ct. 1386, 8 L.
6 Ed. 2d 734 (1962)).

7 In *In re The Roman Catholic Diocese of Rockville*, No. 20-12345 (Bankr. S.D.N.Y. July 12,
8 2023) [ECF No. 2293], the court addressed a similar motion for claims filed over a year after the
9 bar date, looking in particular at the reason for the delay relating to the discovery of claims and the
10 promptness in taking action thereafter. The court found that the reason for delay was fully within
11 the control of the claimants, and “while the offered reason for delay is a sympathetic one, the equities
12 do not weigh in favor of permitting the late-filed claims to proceed.” *Id.* at *23. Although the Second
13 Circuit gives the most weight to the third factor under *Pioneer*, the Ninth Circuit leaves the weighing
14 of *Pioneer*’s factors to the discretion of the court. See *Alexander v. Saul*, 5 F.4th 139, 149 and n. 5
15 (2nd Cir. 2021) (stating that, “[a]ffording dispositive weight to [the third] factor accords with our
16 precedents, which have described the reason for the delay as the most important *Pioneer* factor”
17 (collecting cases)); see also *Pincay v. Andrews*, 389 F.3d 853, 860 (9th Cir. 2004) (en banc) (stating
18 that, “we leave the weighing of *Pioneer*’s equitable factors to the discretion of the...court in every
19 case”).

20 In *Pincay v. Andrews*, the Ninth Circuit declined to second guess the lower court’s findings
21 stating, in pertinent part:

22 We recognize that a lawyer’s failure to read an applicable rule is one of the least
23 compelling excuses that can be offered; yet the nature of the contextual analysis
24 and the balancing of the factors adopted in *Pioneer* counsel against the creation
25 of any rigid rule. Rather, the decision whether to grant or deny an extension of
26 time to file a notice of appeal should be entrusted to the discretion of the district
27 court because the district court is in a better position than we are to evaluate
28 factors such as whether the lawyer had otherwise been diligent, the propensity
of the other side to capitalize on petty mistakes, the quality of representation of
the lawyers (in this litigation over its 15-year history), and the likelihood of
injustice if the appeal was not allowed. Had the district court declined to permit

1 the filing of the notice, we would be hard pressed to find any rationale requiring
2 us to reverse.

3 *Pincay v. Andrews*, 389 F.3d at 859.

4 IV. RESERVATION OF RIGHTS

5 If the Court grants the Motion, the Debtor reserves all rights with respect to the Claim and
6 requests inclusion of language specifying the same in the order granting the Motion. The Debtor
7 requests that the following language be included in any order to: (a) reserve all parties' rights to
8 raise and pursue any and all applicable objections and defenses to the Claim, including without
9 limitation any time-bar or statute of limitations defenses (other than timeliness of filing a proof of
10 claim), and; (b) reserve all parties' rights with respect to *other* claims not filed prior to the February
11 20, 2024, Bar Date, for which a corresponding motion to allow late-filed claim(s) has not yet been
12 filed or pursuant to any other pending motions:

13 Nothing herein shall be construed to impair or diminish in any way the rights
14 of any party, including the Debtor, to object to the Claim, and to the alleged
15 claim of Claimant, on any grounds, except for the timeliness of the filing of the
16 Claim, pursuant to Federal Rule of Bankruptcy Procedure 3007 or any other
17 applicable law, or any procedure approved by the Bankruptcy Court with
18 respect to the same. All parties' rights and defenses with respect to any
19 objection to Claim are expressly reserved, including without limitation any
20 time-bar or statute of limitations defenses (other than timeliness of the filing of
21 the Claim). Nothing herein shall be construed to impair or diminish in any way
22 the rights of any party, including the Debtor, to object to *other* claims not filed
23 prior to the February 20, 2024, Bar Date, for which a corresponding motion to
24 allow late-filed claim(s) is pending or has not yet been filed, on any grounds.

25 All parties' rights and defenses with respect to *other* claims not timely filed by
26 the February 20, 2024, Bar Date are expressly reserved, including without
27 limitation any time-bar or statute of limitations defenses (including the
28 timeliness of the filing of the *other* claims).

24 ///

25 ///

26 ///

27 ///

28 ///

1 If the Court grants the Motion, the Debtor requests that the Court set a specific date by which
2 the Claim must be properly filed, with such date being approximately 30 days after the entry of an
3 order on the Motion.

4 Dated: October 9, 2025

FELDERSTEIN FITZGERALD WILLOUGHBY
PASCUZZI & RIOS LLP

6 By: /s/ Paul J. Pascuzzi
Paul J. Pascuzzi
7 Jason E. Rios
8 Mikayla E. Kutsuris
Attorneys for The Roman Catholic
9 Archbishop of San Francisco

10 Dated: October 9, 2025

SHEPPARD, MULLIN, RICHTER & HAMPTON
11 LLP

12 By: /s/ Ori Katz
13 Ori Katz
14 Alan H. Martin
Attorneys for The Roman Catholic
15 Archbishop of San Francisco